



UNITED STATES PATENT AND TRADEMARK OFFICE

cu

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/083,150	05/22/1998	BOUDIAF BOUSSOUIRA	057250306000	3636
------------	------------	--------------------	--------------	------

22852 7590 04/25/2006

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER

WEBMAN, EDWARD J

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/083,150	BOUSSOUIRA ET AL.	
	Examiner	Art Unit	
	Edward J. Webman	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 29-32, 36 and 38-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28, 33-35 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23, 27, 33-35, 37 rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf et al in view of Fanchon et al and Tomalia et al '337.

Wolf et al teach an anti-acne composition comprising 0.01-25% of a carrier complexed to an active such as salicylic acid (abstract). 40-50% carrier is specified (column 4 lines 11-13). Polyamidoamine dendrimers having 1-10 generations are specified as carriers (column 3 lines 40-53). Applicants elected polyalkylene polyamines (remarks filed 2/22/00). In applicants' specification, on page 8 line 18-page 12 line 12), applicants disclose that polyalkylene polymers can be in dendrimer form and disclose that dendrimers are hyperbranched polymers comprising tertiary amine monomers. Thus, the dendrimers of Wolf et al meet claims 1-5 and 14-15, 37 drawn to the claimed polymer. However, Wolf et al do not teach polyethyleneimine dendrimers. Wolf et al further teach pigments such as titanium oxide (column 6 lines 33-34). Applicants claim nanopigments in claims 1-23, 27, 33-35, 37 and, in particular, titanium oxide in claims 9-11. However, Wolf et al do not teach nanopigments. Wolf et al also teach emollients such as oleic acid and waxes such as jojoba oil (column 5 line 53 and column 6 line 50). The former meets the photo-oxidizable fatty substance in claims 16-19, which applicants disclose as containing at least one unsaturation on page 26 lines 18-20. The latter meets the oil of claims 22-23, the latter claim reciting jojoba oil. Wolf

Art Unit: 1616

et al teach 5-75% pigment and 0.1-40% emollient, overlapping the ranges for these substances in claims 12-13 and 19 respectively. Wolf et al teaches other carriers, including animal protein, meeting that in claim 21. Wolf et al teaches emulsions (column 4 lines 43-44), the form applicants elected in the paper filed 2/22/00, meeting claim 27. Wolf et al also teaches sunscreen (column 4 lines 31-32), meeting claims 33-34.

Fanchon et al teach anti-acne compositions containing keratolytic agents such as salicylic acid (title, abstract, column 7 lines 5-7) and screening agents such as nanopigments, including titanium oxide (column 7, lines 12, 29-30).

Tomalia et al teach hydrolytically-stable dense star polyamines (title). Polyethyleneimine cores are disclosed (column 12 line 13).

It would have been obvious to one of ordinary skill to use nanopigments in the composition of Wolf et al to achieve the beneficial effect of a screening agent in view of Fanchon et al, meeting claims 1-23, 27, 33-35, and 37, particularly claims 9-11 directed to titanium oxide. It would have been further obvious to use the dendrimers with a polyethyleneimine core in the composition of Wolf et al to achieve the beneficial effect of hydrolytic stability, meeting claims 6-8.

Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf et al in view of Fanchon et al as applied to claims 1-23, 27, 28, 33-35, 37 above, and further in view of Garrison et al and O'Brien et al.

Art Unit: 1616

The obvious composition of Wolf et al in view of Fanchon et al concerns the anti-acne composition described above. However, the composition does not include a chelator.

Garrison et al teach an anti-acne composition comprising salicylic acid (abstract). EDTA is disclosed to sequester discoloration-causing metal ions (column 4 lines 3-4).

It would have been obvious to one of ordinary skill to add EDTA to the composition of Wolf et al in view of Fanchon et al to achieve the beneficial effect of preventing discoloration in view of Garrison et al. As to the claimed diethylaminepentaacetic acid, it is well known in the art as equivalent to EDTA as a chelator of metal ions(See O'Brien et al, column 4 lines 66-68). The further obvious combination meets claims 24-25.

Applicants argue that Wolf et al teach a complex of the claimed polymer rather than the polymer itself. However, the Wolf et al complex is formed by ionic bonding. Thus, it is argued that the complex dissociates in an aqueous medium such as the claimed emulsion, dependent upon a dissociation constant, so that there is always an amount of free polymer present. Alternatively, applicants have not shown that the bound polymer does not have the same claimed protective effect that the claimed polymer possesses. Lastly, applicants' claim language does not exclude complexed polymers.


No claims allowed.

Art Unit: 1616

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Webman whose telephone number is 571-272-0633. The examiner can normally be reached on M-F from 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan, can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


EDWARD J. WEBMAN
PRIMARY EXAMINER
GROUP 1500